

REMARKS/ARGUMENTS

The above amendments to original claims 1-36 have been made to satisfy the new USPTO Rules on claim examination, particularly, 37 CFR § 1.75. Independent claims 1, 15, and 25 constitute only three independent claims. The remaining eighteen claims depend therefrom. Accordingly, 37 CFR §1.75, now commonly referred to as the 5/25 Rule, has been satisfied.

This application is a continuation-in-part (CIP) of application Serial No. 10/254,118, ('118 application), filed September 25, 2002, and the prior history of that application is set forth on page 1 of this application. The '118 application has issued as U.S. Patent No. 6,887,505, and it was a CIP of 09/850,983, filed May 8, 2001 ('938 application) which was a continuation of 09/433,365, filed November 3, 1999 ('365 application).

All remaining claims in this application, 1-2, 4-5, 7, 9, 11, 13-16, 19, 21, 23, 25, 27, 29-32, and 36, are believed supported by the prior copending applications, except to the extent that the method and apparatus claims in this application now require automatically flushing and sanitizing the dispenser by dispensing about 180-212°F water into the mixing chamber when no product is dispensed for a period of time. Support for these additional features is disclosed at page 17, line 21 *et seq.* of this application. As set forth therein, the automatic flushing and sanitizing step, and the arrangement of the electronics of the dispenser to accomplish the step, is performed automatically by the dispenser if no product has been dispensed for 1 hour, and will not happen again until another beverage has been dispensed.

Support for the remainder of the method and dispenser claims in this application is set forth in this application wherein it is stated that the above-identified applications are incorporated by reference. The pending claims have also been amended to the extent that the concentrate milk solids can be in the range of about 0.5-28% nonfat (MSNF). However, the claims require dispensing a liquid beverage from an aseptic UHT concentrate containing real milk solids to produce a formulated beverage containing real milk solids.

Wherefore, except for the automatic flushing and sanitizing claim language and broadened/amended concentrate milk solids and formulations, the remaining claims in this application as directed to a method for dispensing a liquid UHT real milk solids beverage from a beverage dispenser employing a pump (peristaltic) which draws a concentrate from an aseptic package such as a plastic bag and discharges it through a dispensing nozzle to mix it with water flowing at a rate effective to aseptically reconstitute the concentrate at a mixing ratio at about 3:1 to about 4:1 are supported by disclosure which dates back to the '365 application. Specific support, for example, in this application at page 15, line 8, to page 18, line 18, dates back to the November 3, 1999, filing date of the '365 application. More specifically, that text also relates to the '505 patent text at column 10, lines 1-42 (the '118 application).

Therefore, claims 1, 14, 15, 25, 27, and 29-31, are believed supported by the earlier '365 and '118 applications, and 37 CFR § 1.78(d)(3) is met.

Application Serial No. 10/790,643
Preliminary Amendment dated October 30, 2007
Under New USPTO Rules of Practice Effective November 1, 2007

For the above reasons, the USPTO New Rules governing applications,
effective November 1, 2007, are believed satisfied.

Respectfully submitted,

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